

From: Rhoda Fry

Date: 02/25/2020

Public Comment: Santa Clara County Board of Supervisors (02/25/20)

Public Comment: Santa Clara County Planning Commission (02/27/20)

Dear Santa Clara County Board of Supervisors and Planning Commissioners:

Attached is a 2003 letter from the HLUET Policy Analyst to Los Altos Hills Planning Commissioner Couperus pertaining to Lehigh's Permanente Quarry 1972 Ridgeline Protection Easement next to Rancho San Antonio. We have seen little or no progress in 17+ years.

- a) **Please provide an update to each of the items listed in the letter.** We are particularly interested in the report that a County consultant was to have produced in 2004.
- b) **What is being done now to ensure that another mining event at the ridgeline won't cause more irreparable harm?** In 2002, quarry over-mining caused a landslide that trespassed onto our Midpeninsula Regional Open Space District land. There were no fines or penalties.

Separately, we are requesting a full investigation as to why, prior to Director Onciano's arrival, the County failed to prevent the permanent devastation of an illegal 40-foot wide road in an area that will someday become open space. During illegal construction Lehigh turned the County inspector away 3 times, June 28, 2018, July 26, and August 9 2018.¹

- c) **Why did County management fail to enforce PRC §2207 (b) (2):** "The owner or operator of a mining operation shall allow access to the property to any governmental agency?"

Lehigh's parent company, HeidelbergCement Germany shows no consideration for the citizens of Santa Clara County, laws, or even their management team as demonstrated by Chairman Bernd Scheifele's rant referring to the quarry's neighbors as "**Silicon Valley Freaks.**"

"Heidelberg has the luxury to run 3 cement plants in a very nice part of North America in California. But California is not very friendly to heavy industry, meaning operation costs in California are extremely high because I think we spend -- or each year, at least 2 million or 3 million [EURO] for lawyers who fight the Sierra Club which I'm not sure whether you're aware, you know the Sierra Club, this is a kind of ecologist, grass-root movement in U.S. and **they are trying to sue us on whatever is happening.** So this is not an easy environment. Our cement plant in Permanente is based in Cupertino. We have an excellent view on the new Apple headquarter. So that's a very nice area. **The problem is our neighbors are all these Silicon Valley freaks, these multimillionaires** and they **love if our trucks come and go from the cement plant**, so that makes the whole operational environment a little bit difficult, but tells you a little bit about the intrinsic real estate value of that piece of property, I think it is about 2000 hectares or whatever. So it's a huge site.

¹ Santa Clara County Notice of Violation Permanente (Lehigh) Quarry 8/17/2018
https://www.sccgov.org/sites/dpd/DocsForms/Documents/2250_NOV_20180817.pdf

And **we had always problems to run the plant**, also to find the right personnel, because it is for us extremely difficult to find a decent plant manager and production manager because living costs in Cupertino are sky high. That's the one part. So we have a little bit of people issue and the other point is we had an extremely wet weather and production problems. And to make a long story short, Heidelberg, we were aggressive. We finally decided to change plant management in a very broad range. **We fired the plant manager, the production manager and the maintenance repair manager** and brought 3 new guys in. And I'm watching the KPIs now with a lot of attention and our production volumes in May and June have already significantly improved. So we are now on a better trend. Some call it weather-related delays in production. You can word it that way; that is nice. If you say it also, I would say it was a mix of weather and a little bit underperformance on the management side. And on the latter, the tolerance in Heidelberg is relatively low. That's why we moved now on the management side and we're confident that we will have a better run on the second half.”²

Since the Chairman changed his management team to address the pervasive problems he's had in running the plant:

- proposed federal labor-safety fines escalated from about \$140K (2014-2016) to \$1.4M (2017 to 2019), a 9.7X increase.³
- In 2018 the illegal road was constructed and in 2019 an unstable mountain of mining waste marching toward Permanente Creek resulted in Notices of Violation from the County and the Water Board.⁴

It seems that this quarry, which employs about 25 mostly out-of-state non-union people, and the cement plant, is completely out of control. With its vast expertise in running over 100 cement plants worldwide,⁵ if HeidelbergCement can't figure out to run the operation safely and cleanly, then no one can.

Thank You,

Rhoda Fry

cc: Cities of Cupertino, Los Altos, Los Altos Hills, Midpeninsula Regional Open Space District

² HeidelbergCement Half-Year Financial Report January to June 2017 | Press Conference Call | Analyst Conference Call August 1. Audio starts at 1:01:14 <https://www.heidelbergcement.com/en/half-year-financial-report-january-to-june-2017-press-conference-call-analyst-conference-call>

³ U.S. Department of Labor Mining Safety and Health Administration (MSHA) database <https://www.msha.gov/mine-data-retrieval-system>

⁴ Santa Clara County Notice of Violation Permanente (Lehigh) Quarry 6/13/2019 https://www.sccgov.org/sites/dpd/DocsForms/Documents/PLN19_2250_NOV_20190613.pdf

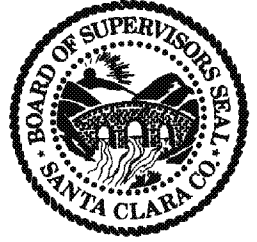
Water Board Notice of Violation for Discharge of Wasterock to Permanente Creek and Technical Report Requirements related to the Permanente Quarry and Cement Plant (Lehigh), Cupertino, Santa Clara County <https://www.cupertino.org/home/showdocument?id=25812>

⁵ 2019 HeidelbergCement Company Brochure https://www.heidelbergcement.com/system/files_force/assets/document/7c/9f/facts_and_figures-2019_en.pdf?download=1

County of Santa Clara

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Liz Kniss
Supervisor Fifth District

November 14, 2003

Mr. Jitze Couperus
13680 Page Mill Road
Los Altos Hills, CA 94022

Re: Hanson Quarry Ridgeline

Dear Mr. Couperus:

Thank you for your recent letter regarding the Hanson Quarry. Our office has received various complaints about the increasing visibility of quarrying activities at the Hanson Quarry near Cupertino. The County has been investigating these issues for over a year, and has had several meetings and written communications with the Quarry. The visibility issues appear to be related to the buildup of the overburden area and/or the lowering of the ridgeline around the Quarry.

Buildup of Overburden Area

The Quarry's approved reclamation plan provides for the placement of overburden materials in an area on the western side of the Quarry pit. This overburden area has grown in elevation over the years, and is now visible from Rancho San Antonio Park and portions of Los Altos.

According to the Quarry's approved reclamation plan, the sides of the overburden area are to be revegetated as mining progresses. The top of the newly created hill will not be revegetated until mining is complete, at which point the top will be hydroseeded and allowed to naturalize.

Lowering of Ridgeline

The Quarry dedicated a Ridgeline Protection Easement to the County in 1972. The purpose of the Easement was to preserve a ridgeline that provided a scenic backdrop and shielded the quarry and industrial operations from public view. The intent was to keep the ridgeline from falling below a certain elevation so that it would continue to visually shield the Quarry.

There have been several landslides affecting the ridgeline since the ridgeline easement was granted. The major landslides are shown on the attached exhibit.

The first major slide occurred in 1987 and involved a large rock slide on the north face of the quarry pit. The Quarry's geologists estimated that approximately 3.5 million cubic yards of rock material could give way, jeopardizing future Quarry operations and the safety of the quarry operators and equipment. So the Quarry obtained an emergency grading authorization from the County to repair the slide and stabilize the area.

Since 2000, there have been at least three additional major landslides along the ridgeline. The January 2001 slide measured approximately 200-450' wide x 200' long x 20-40' deep. Sliding in this area is expected to continue.

While investigating the 2001 landslide, geologists discovered two additional landslides. The "2002 Slide" is east of the 2001 landslide and encroaches onto land owned by the Midpeninsula Regional Open Space District.

In Fall 2002, the Quarry sought another emergency grading authorization from the County on the grounds that immediate action was required to stabilize the slopes in the 2002 Slide area to avoid dangers to Quarry workers and visitors on Midpen land from the 2002 slide. The Quarry estimated that 840,000 cubic yards of material would need to be removed to stabilize this area, including 320,000 cubic yards from Midpen's land. When asked whether all of this work qualified as an "emergency," the Quarry clarified that it only sought an emergency authorization to remove 100,000 cubic yards. Before processing the emergency grading authorization, the County asked the Quarry to provide more information, including how the soil removal and continuing slope instability problems would affect the Quarry's reclamation plan and the County's ridgeline easement. The Quarry responded through its attorney in April 2003 that the slide was outside of the area covered by the easement and that no modification to the Quarry's reclamation plan was required. No action has been taken on the Quarry's emergency grading application.

While investigating the 2001 and 2002 landslides, another major slide was discovered in the area between the 2001 and 2002 landslides (the "2003 Slide" on the attachment).

The County Board of Supervisors is in the process of consulting with its counsel and determining how to proceed with respect to the ridgeline easement.

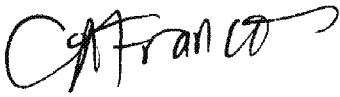
Reclamation Plan Status

The Quarry's reclamation plan was approved in 1980 and expires in 2005. Based on the numerous landslides and other activities at the Quarry, the County is investigating

whether the Quarry is in compliance with its approved reclamation plan and whether the plan needs to be modified to reflect the lowering of the ridgeline and/or other deviations from the approved plan. The County has selected a qualified consultant to fully investigate this issue, and the investigation is expected to be completed by Summer 2004.

Please be assured that our office is working on this issue and will keep you apprised of its status. Again, thank you for contacting our office and if I could be of any assistance to you in the future, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Yoyi Franco", with a stylized flourish at the end.

Yoyi Aglipay Franco, Esq.
Policy Analyst
Housing, Land Use, Environment and Transportation
Public Safety and Justice
Office of Supervisor Liz Kniss - District 5

Attachment: Exhibit of Landslides

